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FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
AUG - 8 2018	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

-oOo-

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CEMONE CHAMPAGNE LEWIS,

Defendant.

2:18-cr-055-APG-GWF

**PLEA AGREEMENT UNDER  
 FED. R. CRIM. P. 11(c)(1)(A) and (B)**

Plaintiff United States of America, by and through DAYLE ELIESON, United States Attorney; Phillip N. Smith, Jr., Assistant United States Attorney; the Defendant CEMONE CHAMPAGNE LEWIS; and the Defendant's attorney, Margaret W. Lambrose, Assistant Federal Public Defender, submit this Plea Agreement under Fed. R. Crim. P. 11(c)(1)(A) and (B).

**I. SCOPE OF AGREEMENT**

The parties to this Plea Agreement are the United States of America and CEMONE CHAMPAGNE LEWIS (the Defendant). This Plea Agreement binds the Defendant and the United States Attorney's Office for the District of Nevada. It does not bind any other prosecuting, administrative, or regulatory authority, the United States Probation Office, or the Court.

The Plea Agreement sets forth the parties' agreement regarding the criminal charges referenced in the Plea Agreement and the applicable sentence, fine, and restitution. It does not control or prohibit

1 the United States or any agency or third party from seeking any other civil or administrative remedies  
2 directly or indirectly against the Defendant.

3 **II. DISPOSITION OF CHARGES AND WAIVER OF TRIAL RIGHTS**

4 A. Guilty Plea. The Defendant knowingly and voluntarily agrees to plead guilty to the  
5 following charge as set forth in the Criminal Indictment:

6 Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

7 B. Waiver of Trial Rights. The Defendant acknowledges that he has been advised and  
8 understands that by entering a plea of guilty he is waiving -- that is, giving up -- certain rights  
9 guaranteed to all defendants by the laws and the Constitution of the United States. Specifically, the  
10 Defendant is giving up:

- 11 1. The right to proceed to trial by jury on all charges, or to a trial by a judge if the  
12 Defendant and the United States both agree;
- 13 2. The right to confront the witnesses against the Defendant at such a trial, and to  
14 cross-examine them;
- 15 3. The right to remain silent at such a trial, with assurance that his silence could  
16 not be used against him in any way;
- 17 4. The right to testify in his own defense at such a trial if he so chooses;
- 18 5. The right to compel witnesses to appear at such a trial and testify in the  
19 Defendant's behalf; and
- 20 6. The right to have the assistance of an attorney at all stages of such proceedings.

21 C. Withdrawal of Guilty Plea. The Defendant will not seek to withdraw his guilty plea  
22 after he has entered it in court.

23 D. Additional Charges. The United States agrees not to bring any additional charges  
24 against the Defendant arising out of the investigation in the District of Nevada that culminated in this

1 Plea Agreement and based on conduct known to the United States except that the United States  
2 reserves the right to prosecute the Defendant for any crime of violence as defined by 18 U.S.C. § 16.

3 **III. ELEMENTS OF THE OFFENSE**

4 The elements of Felon in Possession of a Firearm under 18 U.S.C. § 922(g)(1) are:

- 5 1. the Defendant knowingly possessed a firearm;
- 6 2. the firearm had been shipped or transported from one state to another; and
- 7 3. at the time the Defendant possessed the firearm, the Defendant had been previously  
8 convicted of a crime punishable by a term of imprisonment exceeding one year.

9 *See Ninth Cir. Manual of Model Jury Instr., Criminal 8.65 (2010 ed.).*

10 **IV. FACTS SUPPORTING GUILTY PLEA**

11 A. The Defendant will plead guilty because he is, in fact and under the law, guilty of the  
12 crimes charged.

13 B. The Defendant acknowledges that if he elected to go to trial instead of pleading guilty,  
14 the United States could prove his guilt beyond a reasonable doubt. The Defendant further  
15 acknowledges that his admissions and declarations of fact set forth below satisfy every element of the  
16 charged offenses.

17 C. The Defendant waives any potential future claim that the facts he admitted in this Plea  
18 Agreement were insufficient to satisfy the elements of the charged offenses.

19 D. The Defendant admits and declares under penalty of perjury that the facts set forth  
20 below:

21 On February 1, 2018, ~~at approximately~~ <sup>PNS 08-01</sup> LVMPD officers conducted a traffic stop on a vehicle  
22 being driven by CEMONE CHAMPAGNE LEWIS at 125 E. Harmon Ave., just west of Koval Lane.  
23 During the course of the stop, LEWIS was asked to step out of his vehicle. During the course of the  
24 ensuing investigation, the police recovered a Ruger .380 caliber semi-automatic pistol bearing serial

1 number 380-108493 in LEWIS's groin area.

2 The Defendant admits that he was in possession of the aforementioned firearm. At the time  
3 the Defendant was in possession of the firearm, he had been previously convicted of a crime  
4 punishable by a term of imprisonment exceeding one year. The firearm had also been shipped and  
5 transported in interstate commerce.

6 All of the foregoing occurred in the State and Federal District of Nevada.

7 **V. COLLATERAL USE OF FACTUAL ADMISSIONS**

8 The facts set forth in Section IV of this Plea Agreement shall be admissible against the  
9 Defendant under Fed. R. Evid. 801(d)(2)(A) at sentencing for any purpose. If the Defendant does not  
10 plead guilty or withdraws his guilty plea, the facts set forth in Section IV of this Plea Agreement shall  
11 be admissible at any proceeding, including a trial, for impeaching or rebutting any evidence, argument  
12 or representation offered by or on the Defendant's behalf. The Defendant expressly waives all rights  
13 under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 regarding the use of the facts set forth in Section  
14 IV of this Plea Agreement.

15 **VI. APPLICATION OF SENTENCING GUIDELINES PROVISIONS**

16 A. Discretionary Nature of Sentencing Guidelines. The Defendant acknowledges that the  
17 Court must consider the United States Sentencing Guidelines ("USSG" or "Sentencing Guidelines")  
18 in determining the Defendant's sentence, but that the Sentencing Guidelines are advisory, not  
19 mandatory, and the Court has discretion to impose any reasonable sentence up to the maximum term  
20 of imprisonment permitted by statute.

21 B. Reduction of Offense Level for Acceptance of Responsibility. Under USSG §  
22 3E1.1(a), the United States will recommend that the Defendant receive a two-level downward  
23 adjustment for acceptance of responsibility unless he (a) fails to truthfully admit facts establishing a  
24 factual basis for the guilty plea when he enters the plea; (b) fails to truthfully admit facts establishing

1 the amount of restitution owed when he enters his guilty plea; (c) fails to truthfully admit facts  
2 establishing the forfeiture allegations when he enters his guilty plea; (d) provides false or misleading  
3 information to the United States, the Court, Pretrial Services, or the Probation Office; (e) denies  
4 involvement in the offense or provides conflicting statements regarding his involvement or falsely  
5 denies or frivolously contests conduct relevant to the offense; (f) attempts to withdraw his guilty plea;  
6 (g) commits or attempts to commit any crime; (h) fails to appear in court; or (i) violates the conditions  
7 of pretrial release.

8 Under USSG § 3E1.1(b), if the Court determines that the Defendant's total offense level,  
9 before operation of § 3E1.1(a), is 16 or higher, and if the United States recommends a two-level  
10 downward adjustment pursuant to the preceding paragraph, the United States will move for an  
11 additional one-level downward adjustment for acceptance of responsibility before sentencing because  
12 the Defendant communicated his decision to plead guilty in a timely manner that enabled the United  
13 States to avoid preparing for trial and to efficiently allocate its resources.

14 C. Criminal History Category. The Defendant acknowledges that the Court may base his  
15 sentence in part on the Defendant's criminal record or criminal history. The Court will determine the  
16 Defendant's Criminal History Category under the Sentencing Guidelines.

17 D. Relevant Conduct. The Court may consider any counts dismissed under this Plea  
18 Agreement and all other relevant conduct, whether charged or uncharged, in determining the  
19 applicable Sentencing Guidelines range and whether to depart from that range.

20 E. Additional Sentencing Information. The stipulated Sentencing Guidelines calculations  
21 are based on information now known to the parties. The parties may provide additional information  
22 to the United States Probation Office and the Court regarding the nature, scope, and extent of the  
23 Defendant's criminal conduct and any aggravating or mitigating facts or circumstances.

24 Good faith efforts to provide truthful information or to correct factual misstatements shall not

1 be grounds for the Defendant to withdraw his guilty plea.

2 The Defendant acknowledges that the United States Probation Office may calculate the  
3 Sentencing Guidelines differently and may rely on additional information it obtains through its  
4 investigation. The Defendant also acknowledges that the Court may rely on this and other additional  
5 information as it calculates the Sentencing Guidelines range and makes other sentencing  
6 determinations, and the Court's reliance on such information shall not be grounds for the Defendant  
7 to withdraw his guilty plea.

## 8 **VII. APPLICATION OF SENTENCING STATUTES**

9 A. Maximum Penalty. The maximum penalty for Felon in Possession of a Firearm  
10 under 18 U.S.C. §§ 922(g)(1) and 924(a)(2) is a 10-year prison sentence, a fine of not more than two-  
11 hundred fifty thousand dollars (\$250,000), or both.

12 B. Factors Under 18 U.S.C. § 3553. The Court must consider the factors set forth in 18  
13 U.S.C. § 3553(a) in determining the Defendant's sentence. However, the statutory maximum sentence  
14 limits the Court's discretion in determining the Defendant's sentence.

15 C. Parole Abolished. The Defendant acknowledges that his prison sentence cannot be  
16 shortened by early release on parole because parole has been abolished.

17 D. Supervised Release. In addition to imprisonment and a fine, the Defendant will be  
18 subject to a term of supervised release not to exceed three years. 18 U.S.C. §§ 3559(a)(3) and  
19 3583(b)(2). Supervised release is a period of time after release from prison during which the  
20 Defendant will be subject to various restrictions and requirements. If the Defendant violates any  
21 condition of supervised release, the Court may order the Defendant's return to prison for all or part of  
22 the term of supervised release, which could result in the Defendant serving a total term of  
23 imprisonment greater than the statutory maximum prison sentence of 10 years.

1 E. Special Assessment. The Defendant will pay a \$100.00 special assessment per count  
2 of conviction at the time of sentencing.

3 **VIII. POSITIONS REGARDING SENTENCE**

4 The parties will jointly recommend that the Court sentence the Defendant to a sentence of time  
5 served, unless the Defendant commits any act that could result in a loss of the downward adjustment  
6 for acceptance of responsibility. The Government will also not oppose the Defendant's motion for  
7 release pending sentencing, but retains the right to argue the conditions of any such release. The  
8 Defendant acknowledges that the Court does not have to follow the parties' recommendations.  
9 Notwithstanding its agreement to recommend a sentence of time served, the United States reserves its  
10 right to defend any lawfully imposed sentence on appeal or in any post-conviction litigation. The  
11 parties retain the right to argue as to the length of any term of supervised release.

12 The Defendant may request a sentence below the Sentencing Guidelines range as calculated  
13 by the Court, and may seek a downward adjustment pursuant to 18 U.S.C. § 3553 or USSG §  
14 4A1.3(b)(1) from any sentence the Court may impose.

15 **IX. FINANCIAL INFORMATION AND DISPOSITION OF ASSETS**

16 Before or after sentencing, upon request by the Court, the United States, or the Probation  
17 Office, the Defendant will provide accurate and complete financial information, submit sworn  
18 statements, and/or give depositions under oath concerning his assets and his ability to pay. The  
19 Defendant will surrender assets he obtained directly or indirectly as a result of his crimes, and will  
20 release funds and property under his control in order to pay any fine, forfeiture, or restitution ordered  
21 by the Court.

22 **X. THE DEFENDANT'S ACKNOWLEDGMENTS AND WAIVERS**

23 A. Plea Agreement and Decision to Plead Guilty. The Defendant acknowledges that:

24 (1) He has read this Plea Agreement and understands its terms and conditions;

- (2) He has had adequate time to discuss this case, the evidence, and this Plea Agreement with his attorney;
- (3) He has discussed the terms of this Plea Agreement with his attorney;
- (4) The representations contained in this Plea Agreement are true and correct, including the facts set forth in Section IV; and
- (5) He was not under the influence of any alcohol, drug, or medicine that would impair his ability to understand the Agreement when he considered signing this Plea Agreement and when he signed it.

The Defendant understands that he alone decides whether to plead guilty or go to trial, and acknowledges that he has decided to enter his guilty plea knowing of the charges brought against him, his possible defenses, and the benefits and possible detriments of proceeding to trial. The Defendant also acknowledges that he decided to plead guilty voluntarily and that no one coerced or threatened him to enter into this Plea Agreement.

B. Waiver of Appeal and Post-Conviction Proceedings. The Defendant knowingly and expressly waives: (a) the right to appeal any sentence imposed within or below the applicable Sentencing Guideline range as determined by the Court; (b) the right to appeal the manner in which the Court determined that sentence on the grounds set forth in 18 U.S.C. § 3742; and (c) the right to appeal any other aspect of the conviction or sentence and any order of restitution or forfeiture.

The Defendant also knowingly and expressly waives all collateral challenges, including any claims under 28 U.S.C. § 2255, to his conviction, sentence, and the procedure by which the Court adjudicated guilt and imposed sentence, except non-waivable claims of ineffective assistance of counsel.

The Defendant reserves only the right to appeal any portion of the sentence that is an upward departure or an upward variance from the Sentencing Guidelines range determined by the Court.



1 The Defendant acknowledges that the United States is not obligated or required to preserve  
2 any evidence obtained in the investigation of this case.

3 C. Removal / Deportation Consequences. The Defendant understands and acknowledges  
4 that if he is not a United States citizen, then it is highly probable that he will be permanently removed  
5 (deported) from the United States as a consequence of pleading guilty under the terms of this Plea  
6 Agreement. The Defendant has also been advised if his conviction is for an offense described in 8  
7 U.S.C. § 1101(a)(43), he will be deported and removed from the United States and will not be allowed  
8 to return to the United States at any time in the future. The Defendant desires to plead guilty regardless  
9 of any immigration consequences that may result from his guilty plea, even if the consequence is  
10 automatic removal from the United States with no possibility of returning. The Defendant  
11 acknowledges that he has specifically discussed these removal / deportation consequences with his  
12 attorney.

### 13 **XI. ADDITIONAL ACKNOWLEDGMENTS**

14 This Plea Agreement resulted from an arms-length negotiation in which both parties bargained  
15 for and received valuable benefits in exchange for valuable concessions. It constitutes the entire  
16 agreement negotiated and agreed to by the parties. No promises, agreements or conditions other than  
17 those set forth in this agreement have been made or implied by the Defendant, the Defendant's  
18 attorney, or the United States, and no additional promises, agreements or conditions shall have any  
19 force or effect unless set forth in writing and signed by all parties or confirmed on the record before

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24 . . .


1 the Court.

2 DAYLE ELIESON,  
3 United States Attorney


4 DATE 8-8-18

  
5 PHILLIP N. SMITH, JR.  
6 Assistant United States Attorney

7 DATE 7-6-18

  
8 MARGARET LAMBROSE  
9 Assistant Federal Public Defender

10 DATE 7-6-18

  
11 CHAMPAGNE CEMONE LEWIS  
12 Defendant  
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